

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE:

B-221346.2

DATE: April 8, 1986

MATTER OF:

Johnston Communications--Reconsideration

DIGEST:

Reconsideration request based on new argument untimely raised and protester's mere disagreement with legal conclusion that is based on well-settled federal procurement principle fails to establish any error of fact or law warranting reversal of original decision.

Johnston Communications requests reconsideration of our decision, Johnston Communications, B-221346, Feb. 28, 1986, 86-1 C.P.D. ¶ ___, denying the firm's protest that the General Services Administration (GSA) should not have rejected Johnston's proposal as technically unacceptable without referring the issue to the Small Business Administration (SBA) under the certificate of competency (COC) procedures. We deny the request for reconsideration.

We denied Johnston's protest because rejection of a small business offer as technically unacceptable does not reach the matter of the offeror's responsibility and, thus, contrary to Johnston's argument, need not be referred to the SBA. We went on to find that GSA properly had determined Johnston's proposal to be technically unacceptable based on Johnston's failure to comply with GSA's request, during discussions, for detailed technical information necessary for the evaluation.

In its request for reconsideration, Johnston maintains that the solicitation requirements for additional technical data "were overly stringent and unnecessary," and that it did, in fact, submit sufficient data. Johnston also disagrees with our conclusion that its rejection for technical reasons did not concern responsibility.

In order to prevail in a request for reconsideration, the requester must show that our decision was founded on errors of fact or law. Bid Protest Regulations, 4 C.F.R. § 21.12 (1985); Ross Bicycles, Inc.--Request for Reconsideration, B-219485.2, July 31, 1985, 85-2 C.P.D. ¶ 110. Johnston has not met this standard. Johnston's position

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that the solicitation requirements were unduly stringent concerns an alleged deficiency on the face of the solicitation which, since not raised prior to the initial closing date, is untimely and will not be considered. See 4 C.F.R. § 21.2(a)(1).

Johnston's disagreement with our legal conclusion that its rejection for technical unacceptability did not touch on the question of responsibility also is not a valid basis for reconsidering the matter. This aspect of our holding was based on a well-settled federal procurement principle applied in many of our prior decisions, including Systec, Inc., B-205107, May 28, 1982, 82-1 C.P.D. ¶ 502, the case cited for this principle in our February 28 decision. Thus, Johnston's disagreement notwithstanding, there is no basis for disturbing our conclusion on this point. See Hoboken Shipyards, Inc.; Perth Amboy Dry Dock Co.--Request for Reconsideration, B-219428.2; B-219440.2, Nov. 21, 1985, 85-2 C.P.D. ¶ 582.

We deny the request for reconsideration.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel